



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/212,852	12/16/1998	NEERAV N. DALAL	SAMS01-00063	7782

23990 7590 03/01/2005

DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

EXAMINER

VANDERPUYE, KENNETH N

ART UNIT	PAPER NUMBER
----------	--------------

2661

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/212,852

Applicant(s)

DALAL, NEERAV N.

Examiner

Kenneth N Vanderpuye

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8,10-15 and 18-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8,10-15 and 18-21 is/are allowed.
- 6) ☒ Claim(s) 22-27 and 29-34 is/are rejected.
- 7) ☒ Claim(s) 24, 35 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 7, 15 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 28, 35. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art.(Fig. 2)

The admitted prior art teaches a partitioned selection and SDU comprising:

A first controller associated with a first one of said plurality of base stations(Fig. 2, SDU, 201 is associated with a base station) capable of performing radio link control protocol functions related to wireless communication links between said first base station and at least one of a plurality of mobile stations(Fig. 2@206), a second controller associated with an MSC of said CDMA wireless network capable of performing physical layer protocol functions(Fig. 2@142, switch performs physical layer functions) related to transmission of wireline data comprising at least one voice traffic and data traffic(MSC switches voice data) between said CDMA wireless network and a wireless network coupled to said CDMA wireless network(PSTN), wherein said first controller is disposed in said first base station(SDU, 201 is in base station) and said second controller is disposed in said mobile switching center(switch 142 is in the MSC).

Claims 23, 30 are rejected because the admitted prior art teaches...wherein said RLP functions comprise selection of preferred ones of incoming wireless traffic frames from said base station.(Fig. 2@202)

Claims 24, 31 are rejected because the admitted prior art teaches ...wherein said RLP functions comprise controlling a transmission power of a selected one of said plurality of mobile stations(Fig. 2@212)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-26, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Smolik(6,381,455).

Claims 25-26, 32-33 are rejected because the admitted prior art fails to teach vocoding as one of the physical layer functions in the MSC. This is taught by Smolik(Fig. 1@16). It would have been obvious to one of ordinary skill in the art to combine Smolik with the admitted prior art for the purpose of decompressing/compressing voice data. The motivation being to reduce redundancy.

Claims 27, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art in view of Hammar(5,436,900).

With regards to claims 27, 34, the admitted prior art fails to teach transcoding as one of the physical layer functions in the MSC. This is taught by Hammar(Fig. 22, TRABL). It would have been obvious to combine Hammar with the admitted prior art to the purpose of encoding/decoding. The motivation being to improve channel efficiency.

Allowable Subject Matter

Claims 2-18, 10-15, 18-21 are allowed. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose telephone number is 571-272-3078. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV
2/25/05



KENNETH VANDERPUYE
PRIMARY EXAMINER